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July 7, 2017

REBECCA H. DIETZ  
CITY ATTORNEY

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington DC 20554

**Re: Ex Parte Presentation:** *Accelerating Wireless Broadband Deployment by  
Removing Barriers to Infrastructure Investment,  
WT Docket No. 17-79*

Dear Ms. Dortch:

On July 6, 2017, Bobbie Mason, Deputy City Attorney in New Orleans, Louisiana, participated in a conference call with the FCC's Senior Counsel for Competition & Consumer Protection, David Sieradzki, to discuss the status of the above referenced proceedings.

During the meeting, Ms. Mason highlighted the need for municipalities acting in their proprietary capacities to continue to administer its own land rights without rigid timeframes because the City of New Orleans (or "City") is governed by the Home Rule Charter of the City of New Orleans ("City Charter") and is the sole owner of the majority of the City's rights-of-way. Where the state and local governments are acting in their proprietary capacity or administering their own land and properties, the law is properly understood as treating them no differently than it treats other private property owners vis-a-vis the use of their own property.

Second, Ms. Mason emphasized that while the City has a fervent interest in strengthening its wireless communications services, preserving the historic integrity of the city's structures, the viewscape of its historically landmarked structures, and the *tout ensemble* of the city's historic districts, is an essential component to maintain the City of New Orleans' economic well-being. As a result, a careful amount of scrutiny, analysis, and inspection from the City's historic experts, architectural review commission/staff, and appropriate city departments is necessary to determine suitable locations, architectural compatibility, size, and design standards for proposed wireless facility build-outs, towers, nodes, and poles in city-owned public right-of-ways.

In addition, Ms. Mason explained that the City must also determine if the infrastructure provider and/or carriers' site plans conflict with the City's streetlight locations, underground wire/fiber optic infrastructure, and/or utility poles. This level of review and inspection takes time and requires feedback from its historic commission directors and affected city departments,

especially the Department of Public Works which maintains city-owned streetlights. This is why it is imperative that the City's ability to control and maintain the aesthetics of our public right-of-ways is crucial without the application of rigid timelines or "shot clocks".

Third, Ms. Mason further highlighted that the City of New Orleans' City Charter mandates that its "[City] Council shall have the power to grant franchises, privileges, and permits, fixed or indeterminate, for the use of the streets and other public places for the furnishing of any service to the City or to its inhabitants. All franchises, privileges and permits and any renewals, extensions and amendments thereof, shall be granted only by ordinance". Each proposed ordinance granting an applicant use of the city-owned public right-of-ways requires notice, a twenty day lay-over period, and publication in the City's official journal before the City Council can take the matter up at a regular City Council meeting to approve, disapprove, or amend the proposed ordinance. As such, no infrastructure provider or carrier can occupy the city-owned public right-of-way without the authorization of the City Council via a franchise agreement/ordinance.

In conclusion, Ms. Mason asserted that since there are no limits or timeframes on the decision-making abilities of private property owners, constitutionally or otherwise, as to whether or not to enter lease agreements with infrastructure providers or carriers, and thus, the City of New Orleans, as landowners, should not be restricted or controlled via shot clocks, timeframes, or otherwise in any regard in its decisions to authorize the use of its own land and property. Furthermore, in light of the City of New Orleans' historic expert reviews, city department inspections, and City Council franchising consideration process, wireless facility approvals cannot and should not be constrained or restricted.

Sincerely,



Bobbie Mason  
Deputy City Attorney  
City of New Orleans